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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/893,445

06/29/2001

Yoshifusa Togawa

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EXAMINER

ELISCA, PIERRE E

ART UNIT

PAPER NUMBER

3621

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/04/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/893,445

Applicant(s)

TOGAWA ET AL.

Examiner

Pierre E. Elisca

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 52-110 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 52-110 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to Applicant's response filed on 08/15/2006.
2. Claims 52-110 are pending.
3. The rejection to claims 52-110 under 35 U.S.C. 102 (e) as being anticipated by Cozza and to claims 52-110 under 35 U.S.C. 103 (a) as being unpatentable over Arnold in view of Cozza as set forth in the Office action mailed on 02/15/2006 is maintained.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).
5. Claims 52-110 are rejected under 35 U.S.C. 102 (e) as being anticipated by Cozza (U.S. Pat. No. 5,502,815).  
  
As per claims 52 and 55-110 Arnold discloses a method/apparatus for increasing the speed at which computer viruses are detected stores initial state information concerning

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the file or volume which is being examined for a virus. This information is stored in a cache in a non-volatile storage medium and when files are subsequently scanned for viruses, the current state information is compared to the initial state information stored in the cache. Please note that the file can be infected with virus or without virus, the system comprising:

A storage device storing files, a virus scanner detecting if a file stored in said storage device is infected with a virus, and a saving unit saving a detected virus-infected file into a specific area within said storage device (see., abstract, col 1-col 5);

As per claims 53 and 54, Arnold discloses the claimed limitations of managing the detected virus-infected file that is saved in the specific area, and deleting the detected virus-infected file (see., col 1-col 5).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 52-110 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Arnold et al. (U.S. Pat. No. 5,440,723) in view of Cozza (U.S. Pat. No. 5,502,815).

As per claims 52 -110 Arnold discloses a periodic monitoring of a data processing system for anomalous behavior that may indicate the presence of an

undesirable software entity such as a computer virus (which is readable as Applicant's claimed invention wherein said a data processing system which has the ability to deal with infection of a file with a virus), the system comprising:

A storage device storing files (see., abstract, fig 1A, items 24 and 26, col 3, lines 49-68);

A virus scanner detecting if a file stored in said storage device is infected with a virus (see., col 1, lines 45-68, col 2, lines 1-11, col 5, lines 29-45); and

Arnold fails to explicitly disclose the limitation wherein said saving or storing a detected virus-infected file into a specific area within said storage device. However Cozza a method/apparatus for increasing the speed at which computer viruses are detected stores initial state information concerning the file or volume which is being examined for a virus. This information is stored in a cache in a non-volatile storage medium and when files are subsequently scanned for viruses, the current state information is compared to the initial state information stored in the cache (see., abstract, col 1-col 5. Please note that the file can be infected with virus or without virus). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the computer virus of Arnold by including the limitation detailed above as taught by Cozza because this would increase the speed at which a computer can scan for the presence of a computer virus.

#### ***Information Disclosure Statement***

8. IDS filed on 08/15/2006 is not considered because form PTO-1449 and the list of IDS citation (s) are not provided.

## RESPONSE TO ARGUMENTS

9. Applicant's arguments filed on 08/15/2006 have been fully considered but they are not persuasive.

## REMARKS

10. In response to Applicant's arguments, Applicant argues that independent claims 72, 79, 84, 85, 92, 97, 98 and 105 recite (quarantine and encryption). The Examiner has not addressed these features anywhere. However, the Examiner respectfully disagrees with this assertion because Arnold discloses an automatic immune system for computer networks in which a report includes encrypted version of a decoy program, in both their original and virus-modified forms (see., Arnold, col 27, lines 7-15). Please note that the limitation of quarantining the file is readable as isolating the infected virus see., Arnold in col 7, lines 3-8, specifically wherein said if one or more decoy programs is subsequently found to have changed from the original, protected version, it can be assumed that the changes are due to a virus. A comparison of each modified decoy program with its corresponding uninfected version enables a copy of the virus to be isolated from each decoy).

Applicant further argues that the prior art of record (Arnold and Cozza) fail to disclose the limitation of saving a detected virus. As indicated above, Cozza discloses this limitation in col 4, lines 59-67, fig 4, step 60, the detected virus is stored or saved in a cache in a non-volatile storage medium. Also, Arnold discloses an automatic scanning

for occurrences of known types of undesirable software entities and taking remedial action if they are discovered. Therefore, the detected virus is stored in a signature database see., Arnold, abstract.

### ***Conclusion***

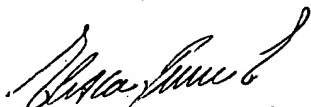
**11 THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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